

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
EDDIE COTTO, : **ORDER**
Petitioner, :
: **09 Civ. 9813 (SAS) (MHD)**
-against- :
BRIAN FISHER, Commissioner, NYS State :
Department of Correctional Services, :
Respondent. :
----- X
SHIRA A. SCHEINDLIN, U.S.D.J.: :
USDC SDNY
DOCUMENT
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I have reviewed the Report and Recommendation (“R&R”) of United States Magistrate Judge Michael H. Dolinger, dated August 23, 2012 (Document # 19), which recommends that I deny the petition for writ of habeas corpus brought by pro se petitioner Eddie Cotto pursuant to 28 U.S.C. § 2254. Although petitioner was given the opportunity to file objections to the R&R by September 10, 2012, he failed to do so. Based on my independent review, I hereby adopt the thorough and thoughtful R&R in full.

In accordance with the R&R, the instant habeas petition is dismissed with prejudice. Because petitioner’s failure to file objections precludes appellate review, this Court will not issue a certificate of appealability. *See Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Frank v. Johnson*, 968 F.2d 298, 300 (2d Cir. 1992) (“We have adopted the rule that failure to object timely to a report waives any

further judicial review of the report.”). The Clerk of the Court is directed to dismiss the instant petition and close this case.

SO ORDERED:



Shira A. Scheindlin
U.S.D.J.

Dated: New York, New York
November 12, 2012

- Appearances -

Petitioner (Pro Se):

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